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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/621,430

07/16/2003

James D. Shaw

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02/25/2009

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EXAMINER

WRIGHT, PATRICIA KATHRYN

ART UNIT

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1797

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/621,430	<b>Applicant(s)</b> SHAW, JAMES D.	
	<b>Examiner</b> P. Kathryn Wright	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-11,14-19,35-43 and 46-48 is/are pending in the application.
- 4a) Of the above claim(s) 15-19,35-43 and 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-11,14,46 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 05, 2009 has been entered.

### ***Status of the Claims***

2. This action is in response to papers filed February 05, 2009 in which claims 1 and 14 were amended. The amendments have been thoroughly reviewed and entered.

Applicant's arguments have been thoroughly reviewed. Any objection/rejection not repeated herein has been withdrawn by the Office.

Claims 1, 3- 5, 7-11, 46 and 48 are currently under examination. Claims 15-19, 35-43 and 47 are currently withdrawn in response to a restriction requirement (filed June 05, 2007).

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outer cylindrical wall having a left hand direction or a right hand direction as recited in claim 1 must be shown or the feature(s) canceled from the claim(s). Note that Fig. 1 shows the inner

cylindrical wall having a left hand direction or a right hand direction No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 7-11, 14 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Libit (US Patent No. 3,556,332).

As to independent claims 1 and 14, Libit teaches a closure for a container comprising:

- (a) an inner cylindrical wall having first and second ends and defining a space;
- (b) an outer cylindrical wall 32 opposite the inner cylindrical wall and having the first and second ends to form an outer surface of the closure;

- (c) a first end wall 17 extending across the first end, wherein the first end wall comprises a recess (aperture formed by boss 25) extending at least partially into the space, and a first set of threads disposed on the recess having a left hand direction 27 (see entire document, in particular, col. 3, lines 62-65); and

a second set of threads 34 disposed on the inner cylindrical wall having a right hand direction which is opposite that of the first set of threads (see also claim 1 of Libit).

Regarding claim 3, Libit teaches wherein the first set of threads have a left hand direction and the second set of threads have a right hand direction (see claim 1 of Libit).

As to claim 7, Libit teaches the second set of threads is disposed on the inner cylindrical wall and the outer cylindrical wall comprises a plurality of vertically extending ridges (i.e., knurled), see col. 2, line 72 et seq.

With respect to claims 8-9, Libit teaches the recess comprises a second end wall 22 disposed opposed the first end wall. The second wall arrests the downward movement of a threaded spindle 39a. Note that the threaded spindle is not a positively

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recited element of the invention. Thus, the spindle does not constitute a limitation in any patentable sense. Nevertheless, the recess of Libit is adapted to receive the threaded spindle (i.e., reads on threaded post 39a extends through the hole 52 in closure as shown in Figs. 3-4).

Regarding claims 10-11, Libit teaches a flange 21 (reads on plug seal and crush rib since the claims do not set forth any structural details which differentiate it from the sealing circumferential rib of Libit). The flange 21 is located at the first end wall between the recess and the outer cylindrical wall and frictionally engages the container 10 to provide a sealing effect.

As to claim 46, Libit teaches the first set of threads on the recess are "dual leads." That is, the internal threads 27 are constructed so as to form a pair of helical paths which do not intersect each other (see embodiments of Figs 1a, 3 and 9-10 and col. 3, line 15 et seq.)

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claims 4-5 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Libit (US Patent No. 3,556,332) in view of Daubert et al., (US Patent Pub. No. 2001/0000793), (hereinafter "Daubert").

The teachings of Libit have been summarized previously, *supra*. Libit does not teach a closure comprising a plurality of ramp-shaped protrusions or ridges arranged along the radial perimeter of the end wall and which extend in a direction away from the closure. However, the use of ramp-shaped protrusions (claims 4-5 and claim 48) in a closure means is considered conventional in the art, see for example, Daubert.

Daubert teaches a closure assembly 46 for a container 30. The closure assembly of Daubert includes a plurality of ramp-shaped protrusions or ridges (no reference no; Figs. 1-2) arranged along the radial perimeter of the end wall and extend in a direction away from the closure that provides a means for gripping by the user during the opening/closing process.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to have included in the closure of Libit, the plurality of ramp-shaped protrusions arranged along the radial perimeter for the end wall that extend in a direction away from the closure in order to provide an easy means for gripping by the user during the opening/closing process of the container.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1, 3-5, 7-11, 14, 46 and 48 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. No claims are allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Kathryn Wright whose telephone number is (571)272-2374. The examiner can normally be reached on Monday thru Thursday, 9 AM to 6 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. Kathryn Wright/  
Patent Examiner, Art Unit 1797